

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

JUL 11 2003

JUDGE CHARLES R. NORGLE
U.S. District Court Judge

HUGO DIAZ,

Plaintiff,

v.

PRUDENTIAL INSURANCE
COMPANY OF AMERICA,

Defendant.

) Case No. 03 C 2702

)
Judge Charles R. Norgle
Magistrate Judge
Geraldine Soat Brown

DOCKETED
AUG 6 2003

INITIAL STATUS REPORT

The parties jointly submit the following initial status report:

A. Nature of the Case. This lawsuit involves a claim to determine plaintiff's eligibility for past-due disability benefits retroactive to August, 2002. In addition to benefits, plaintiff seeks a determination that he is entitled to continue to receive disability benefits until he is no longer eligible or until he reaches age 65. Plaintiff also seeks recovery of pre-judgment interest at the allowable statutory rate.

All necessary parties have been served. Defendant was served and has appeared, filing its Answer on June 9, 2003. Defendant asserts that plaintiff did not meet the definition of disability, and is therefore not entitled to retroactive payment of disability benefits.

The claimed basis of jurisdiction is based upon the Employee Retirement Income Security Act of 1974 (ERISA), 28 U.S.C. §1132(e)(1) and §1132(f). Jurisdiction is also founded on 28 U.S.C. §1331, which gives the district court jurisdiction over actions that arise under the laws of the United States.

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The significant issue in the case is whether plaintiff met the policy definition of disability on August 1, 2002; thus, is plaintiff entitled to retroactive disability income benefits pursuant to 29 U.S.C. §1132(a)(1)(B)?

The factual issues relating to the plaintiff's disability are based on the medical evidence.

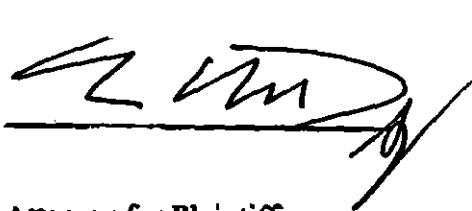
B. Scheduling Order. The parties believe that all discovery can be completed by January 30, 2004. All potential dispositive motions can be filed by March 31, 2004, although plaintiff is already preparing a dispositive motion. Defendant anticipates filing a cross-motion for summary judgment as well. If both motions are denied, a final pretrial order can be filed within 30 days after ruling on potential dispositive motions.

C. Trial Status. A jury demand has not been made by plaintiff. This case should take approximately four trial days.

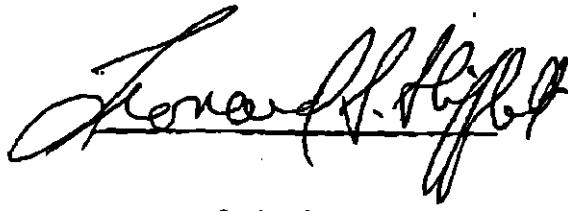
D. Consent to Proceed Before Magistrate Judge. The parties do not consent at this time to proceed before the assigned Magistrate Judge, Magistrate Morton Denlow.

E. Settlement Status. At this time, the parties have not engaged in substantive settlement discussions.

Dated: July 10, 2003



Attorney for Plaintiff
Mark D. DeBofsky
Daley, DeBofsky & Bryant
1 N. LaSalle, Suite 3800
Chicago, Illinois 60602
(312) 372-5200



Attorney for Defendant
Leonard S. Shifflet
Quarles & Brady LLC
500 W. Madison, Ste. 3700
Chicago, IL 60661
(312) 715-5000